

## **UNIFORM LAW COMMISSION**

### **New Acts 2019: Summaries**

#### **UNIFORM AUTOMATED OPERATION OF VEHICLES ACT**

The Uniform Automated Operation of Vehicles Act addresses a narrow but foundational set of the many legal and policy issues raised by automated driving. The act covers the deployment of automated vehicles (colloquially referred to as autonomous, driverless, or self-driving) on roads held open to the public. This act does not cover automated vehicle testing, remote driving, or vehicles with features that merely assist a human driver.

The Society of Automotive Engineers (SAE) International published a report titled “J3016 Levels of Driving Automation” in 2016 to define six levels of driving automation and establish international engineering standards. The six levels of driving automation defined in J3016 have become the industry standard, and can be summarized as follows:

- Level 0 – No Driving Automation
- Level 1 – Driver Assistance (adaptive cruise control OR lane centering)
- Level 2 – Partial Driving Automation (adaptive cruise control AND lane centering)
- Level 3 – Conditional Driving Automation (traffic jam chauffeur – automated driving system can drive vehicle with the expectation that the human driver will be ready to respond to a request to intervene when issued by the automated driving system)
- Level 4 – High Driving Automation (local driverless taxi, pedals/steering wheel may or may not be installed)
- Level 5 – Full Automation (automated driving system can drive the vehicle everywhere in all conditions)

The Uniform Automated Operation of Vehicles Act only applies to vehicles that fall within SAE Levels 3 to 5 and leaves vehicles that fall within SAE Levels 0 to 2 to existing law. Despite the limited application, what the act does cover is still vast because automated driving encompasses a wide range of technologies, applications of those technologies, business models for those applications, and participants in those business models. In other words, because there are so many forms of automated driving, picturing and attempting to legislate for the singular “driverless car” can be both impractical and counterproductive.

This act attempts to reconcile automated driving with a typical state motor vehicle code. Many of the sections—including definitions, driver licensing, vehicle registration, equipment, and rules of the road—correspond to, refer to, and can be incorporated into existing sections of a typical vehicle code. However, because existing codes vary widely in both substance and structure, the work of carefully codifying this act is left to each state that adopts it.

This act also answers a foundational question about the deployment of automated vehicles – who is considered the “driver” when an automated vehicle is under automated operation? Under the Uniform Automated Operation of Vehicles Act, the “driver” in these situations is the automated driving provider (ADP).

Under this act, an automated driving provider declares itself to the state and designates the automated vehicles for which it will act as the legal driver. The ADP is not defined by a specific role in the stream of commerce but, rather, by a willingness to self-identify and an ability to meet the technical and legal requirements specified in the act. To encourage participation, the act requires an automated vehicle to be associated with an ADP before the vehicle can be registered in the state. In this way, the act uses the motor vehicle registration framework that already exists in states—and that applies to both conventional and automated vehicles—to incentivize self-identification by automated driving providers.

Fundamentally, this act is about the safe and responsible deployment of a revolutionary new technology. Automated vehicles have the potential to drastically reduce traffic fatalities while making motor vehicle travel more accessible to many different populations. Enacting the Uniform Automated Operation of Vehicles Act is the first step to ensuring that your state will be at the forefront of this technological revolution.

### **UNIFORM ELECTRONIC WILLS ACT**

A generation ago, nearly all legal documents were printed on paper and existed only in physical form. Today, electronic documents are exceedingly common. Correspondence, financial statements, and even binding contracts are created, signed, and archived in a digital format. But under the law of most states, a person's last will and testament is only valid in tangible, usually paper, form. Why are the rules for wills different than for other legal documents? Because the person who made the will is deceased when a probate court must determine whether the document is authentic.

Traditionally, wills were not enforceable unless they were in writing, signed by the testator, and witnessed by two other people. These requirements showed the testator had thought about who should receive the testator's property and made an effort to leave clear, written instructions. If any provision of the will was challenged by an heir, the witnesses could provide evidence to the court that the testator was of sound mind when signing the will, that the document was not fraudulent and accurately reflected the testator's wishes, and that the testator made the will voluntarily rather than through coercion.

These requirements for executing wills are still important, but in the internet age paper is no longer necessary. Electronic documents can also be securely signed, witnessed, and archived until needed. Moreover, people who use the internet to communicate, shop, and transact business also expect to find legal services online. The Uniform Electronic Wills Act ("E-Wills Act") brings estate planning into the digital age by allowing the online execution of wills while preserving the legal safeguards to ensure a will's authenticity.

The E-Wills Act requires a testator to make a will that is readable as text at the time the testator electronically signs the document. The testator's signature must be witnessed by two people who add their own electronic signatures. Adopting states can opt for a version of the E-Wills Act that requires the witnesses to be physically present with the testator at the time of signing, or for a version that allows remote witnessing.

Like a paper will, an electronic will can be made “self-proving” so the witnesses need not testify in probate court unless the will’s authenticity is challenged. This is done by including sworn, notarized statements by the testator and witnesses. If a state has adopted the Revised Uniform Law on Notarial Acts of 2018, or a similar law permitting remote online notarization, an electronic will can be executed and made self-proving entirely via the internet, with a secure, audio-visual record of the execution attached to the file.

In an effort to attract online estate planning business, a few states have enacted laws that attempt to authorize residents of other states to remotely execute a will under the enacting state’s law. However, some probate courts will not recognize remotely executed wills, setting a potential trap for unwary testators whose carefully considered wills could be deemed invalid. The E-Wills Act provides a useful rule for interstate recognition of wills: The probate court will recognize a will executed under the law of another state only if the testator was either physically present or domiciled in the other state at the time the will was executed.

The E-Wills Act does not require electronic wills to comply with any specific technical standard or process, and therefore will not need to be updated to accommodate future developments.

#### **UNIFORM REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT**

The Uniform Registration of Canadian Money Judgments Act (“Registration Act”) creates an administrative procedure for the registration and enforcement of a Canadian money judgment in an enacting state. Once the Canadian judgment is successfully registered in the state, the judgment is enforceable in the same manner as a judgment rendered in that state. The Registration Act only applies to a Canadian judgment if it: (1) grants or denies recovery of a sum of money; (2) is final, conclusive, and enforceable in Canada; and (3) its recognition is sought in order to enforce the judgment.

The Registration Act supplements the Uniform Foreign-Country Money Judgments Recognition Act (“Recognition Act”) by providing an alternative method to seeking recognition and enforcement of a foreign judgment. Section 6 of the Recognition Act requires the filing of a lawsuit to seek recognition and enforcement of a judgment, whereas the Registration Act offers a simple administrative alternative.

Section 4 of the Registration Act describes the steps to register a Canadian judgment and includes a sample registration form. First, the person seeking registration or that person’s attorney must submit the completed registration form and required attachments to the clerk of court or other designated administrative official. Upon receipt of the registration, the clerk must file the registration, assign a docket number, and enter the Canadian judgment in the court’s docket.

A person that registers a Canadian judgment under Section 4 of the Act must cause notice of the registration to be served on the person against whom the judgment has been registered. Section 6 of the Act states the information that must be included in the notice. Certain enforcement actions are prohibited for the 30 days following service of the notice of registration.

Section 7 of the Registration Act permits a person against whom the judgment was registered to petition the court to vacate the registration. A petition may only assert (1) a ground that could be asserted to deny recognition under the Recognition Act; or (2) a failure to comply with the requirements of the Registration Act. A person that files a petition to vacate under Section 7 may also request the court stay enforcement of the judgment pending determination of the petition.

The Registration Act offers an efficient alternative to filing a lawsuit to recognize and enforce a Canadian money judgment in the United States and should be enacted widely.

**REVISED UNIFORM ATHLETE AGENTS ACT (2015)**  
**(LAST AMENDED 2019)**

With the immense amount of money at stake for a wide variety of professional athletes and those who represent them, the commercial marketplace in which athlete agents operate is extremely competitive. While seeking to best position one's clients and maximize potential income is both legal and good business practice, the recruitment of a student athlete while he or she is still enrolled in an educational institution can cause substantial eligibility problems for both the student athlete and the educational institution, which in turn lead to severe economic sanctions and loss of scholarships for the institution. The problem becomes worse where an unethical agent misleads a student, especially where the athlete is not aware of the possible effect of signing the agency agreement or where agency is established without notice to the athletic director of the institution. In an effort to address these problems, the Uniform Law Commission (ULC) drafted the Uniform Athlete Agents Act (UAAA), which was approved in 2000.

The UAAA provided for the uniform registration and certification of individuals who sought to represent student athletes who were or may have been eligible to participate in intercollegiate sports. Agents who were issued a valid certificate of registration in one state were able to cross-file that application (or a renewal thereof) in all other states that adopted the act. Individuals who applied for registration as agents were required to disclose relevant information including their training, experience, and education, and whether they or an associate had been convicted of a felony or crime of moral turpitude or had their agent's license denied, suspended, or revoked in any state.

The UAAA required agency contracts to contain provisions including agent compensation, descriptions of reimbursable expenses and services to be provided, and warnings of the notice requirements imposed under the act. In addition, the UAAA prohibited certain agent conduct, including providing materially false or misleading information, promises, or representations with the purpose of getting a student athlete to enter into an agency contract, intentionally initiating contact with a student athlete without registering in the state, and providing anything of value to a student athlete or another person before that athlete enters into an agency contract. The UAAA also provided educational institutions with a civil cause of action for damages resulting from a breach of specified duties.

The UAAA was revised in 2015 and is now known as the Revised Uniform Athlete Agents Act (RUAAA). The purposes of the RUAAA include providing enhanced protection for student

athletes and educational institutions, creating a uniform body of agent registration information for use by state agencies, and simplifying the regulatory environment faced by legitimate athlete agents. While retaining other portions of the UAAA, the RUAAA makes the following changes:

- “Athlete agent” is further defined to include an individual who, for compensation or in the anticipation of compensation, serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions or manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes, and an individual who gives something of value to a student athlete or another person in anticipation of representing the athlete for a purpose related to the athlete’s participation in athletics.
- Provides a true reciprocal registration requirement, meaning that if an individual is issued a certificate of registration by one state, the registration is in good standing and no disciplinary proceedings are pending against the registration, and the law in that state is the same or more restrictive as the law in another state, the other state would be required to register the individual.
- Additional requirements are added for the signing of an agency contract. The contract must now contain a statement that the athlete agent is registered in the state in which the contract is signed and list any other state in which the agent is registered. The contract must also be accompanied by a separate record signed by the student athlete acknowledging that signing the contract may result in the loss of eligibility to participate in the athlete’s sport.
- An agent is required to notify the educational institution at which a student athlete is enrolled before contacting a student athlete. A violation of this notice requirement is subject to civil penalties. The revised act also contains a provision that requires an athlete agent with a preexisting relationship with a student athlete who enrolls at an education institution and receives an athletic scholarship to notify the institution of the relationship if the agent knows or should have known of the enrollment and the relationship was motivated by the intention of the agent to recruit or solicit the athlete to enter an agency contract or the agent actually recruited or solicited the student athlete to enter a contract.
- Criminal penalties are added for athlete agents who encourage another individual to take on behalf of the agent an action the agent is prohibited from taking. Student athletes are also given a right of action against an athlete agent in violation of the act.

In September 2017, the FBI arrested ten individuals in relation to a college basketball corruption scandal. As a result of these indictments, the National Collegiate Athletic Association (NCAA) established the Commission on College Basketball (the Rice Commission), chaired by Dr. Condoleezza Rice, to “fully examine critical aspects of Division I men’s basketball.” The Rice Commission recommended “that high school and college players who declare for the NBA draft and are not drafted remain eligible for college basketball unless and until they sign a professional contract. Specifically, players who are not drafted should be permitted to change their minds and attend college or return to college, provided they remain academically and otherwise eligible.”

On August 8, 2018, the NCAA amended its bylaws in accordance with recommendations made by the Rice Commission. The changes apply only to high school and college student athletes playing basketball.

In 2019, the ULC amended Section 14 of the RUAAA to accommodate the NCAA bylaws amendments. Though the changes to the NCAA bylaws are limited to student athletes playing basketball, the ULC did not limit the amendment in the same manner. The 2019 RUAAA amendment accommodates the 2018 changes to NCAA bylaws and will accommodate future changes by associations of educational institutions governing interscholastic or intercollegiate sports to rules or bylaws governing student athletes.

### **UNIFORM PROBATE CODE 2019 AMENDMENTS**

The promulgation of the Uniform Parentage Act (2017) [UPA (2017)] necessitated a new round of revisions to the Uniform Probate Code [UPC] intestacy and class-gift provisions. In part, the UPA (2017) enabled the simplification of the UPC. This is because the UPA (2017) contained detailed provisions on the creation of parent-child relationships including by assisted reproduction. Many of these provisions were incorporated by reference into the UPC, thereby greatly simplifying the UPC, especially Sections 2-120 and 2-121. The UPA (2017) also embraced a functional approach to parentage—the doctrine of de facto parentage—which needed to be incorporated into the UPC’s intestacy and class-gift provisions. The UPA (2017) also opened the door to the possibility that a child may have more than two parents, hence more than two sets of grandparents.

The 2019 revisions to the UPC achieved five principal objectives:

1. Blended families were taken into account not only in Section 2-102 (Share of Spouse), as in the 1990 revisions, but also in Section 2-103 (Share of Heirs Other Than Surviving Spouse).
2. The per-capita-at-each-generation system of representation was incorporated throughout Section 2-103. Heirs in a generation closer to the decedent are favored compared to heirs in a more remote generation; heirs in a given generation are treated equally.
3. Outdated terms were removed. Examples include the references to a decedent’s “maternal” and “paternal” grandparents in the former version of Section 2-103, references to relatives of the “half blood” or “whole blood” in the former version of Section 2-107, and references to “genetic” parents in the former versions of Sections 2-117 through 2-119.
4. The rules in the UPA (2017) governing parent-child relationships created by assisted reproduction were incorporated by reference.
5. The intestacy and class-gift provisions were restructured to incorporate the innovations in the UPA (2017), such as the codification of the doctrine of de facto parentage and the recognition that a child may have more than two parents and, therefore, more than two sets of grandparents.

These conforming amendments should only be considered for enactment by states that adopted an earlier version of the UPC and subsequently adopted the Uniform Parentage Act (2017).